

**To:** Benjamin A. Costa([trademark@rcjlawgroup.com](mailto:trademark@rcjlawgroup.com))  
**Subject:** U.S. Trademark Application Serial No. 97792809 - TENBOUND  
**Sent:** November 13, 2023 12:21:44 PM EST  
**Sent As:** [tmng.notices@uspto.gov](mailto:tmng.notices@uspto.gov)

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#### Attachments

**United States Patent and Trademark Office (USPTO)**  
**Office Action (Official Letter) About Applicant's Trademark Application**

**U.S. Application Serial No.** 97792809

**Mark:** TENBOUND

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**Applicant:** Tenbound Inc.

**Reference/Docket No.** N/A

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## NONFINAL OFFICE ACTION

**Response deadline.** File a response to this nonfinal Office action within three months of the “Issue date” below to avoid [abandonment](#) of the application. Review the Office action and respond using one of the links to the appropriate electronic forms in the “How to respond” section below.

**Request an extension.** For a fee, applicant may [request one three-month extension](#) of the response deadline prior to filing a response. The request must be filed within three months of the “Issue date” below. If the extension request is granted, the USPTO must receive applicant’s response to this letter within six months of the “Issue date” to avoid abandonment of the application.

**Issue date:** November 13, 2023

The referenced application has been reviewed by the assigned trademark examining attorney. Applicant must respond timely and completely to the issue(s) below. 15 U.S.C. §1062(b); 37 C.F.R. §§2.62(a), 2.65(a); TMEP §§711, 718.03.

## SEARCH OF USPTO DATABASE OF MARKS

The trademark examining attorney has searched the USPTO database of registered and pending marks and has found no conflicting marks that would bar registration under Trademark Act Section 2(d). 15 U.S.C. §1052(d); TMEP §704.02.

## **SUMMARY OF ISSUES:**

- Specimen Refusal - Applies to Classes 009 and 045 ONLY
- Identification of Goods and Services Amendment Required

## **SPECIMEN REFUSAL - APPLIES TO CLASSES 009 AND 045 ONLY**

**Specimen does not show use of the mark in commerce.** Registration is refused because the specimen does not show the applied-for mark as actually used in commerce in International Class(es) 009 and 045. Trademark Act Sections 1 and 45, 15 U.S.C. §§1051, 1127; 37 C.F.R. §§2.34(a)(1)(iv), 2.56(a); TMEP §§904, 904.07(a). An application based on Trademark Act Section 1(a) must include a specimen showing the applied-for mark as actually used in commerce for each international class of goods identified in the application or amendment to allege use. 15 U.S.C. §1051(a)(1); 37 C.F.R. §§2.34(a)(1)(iv), 2.56(a); TMEP §§904, 904.07(a).

Specifically, none of the pages provided specifically show that consumers have the ability to download the identified podcasts, audio, video, and audiovisual presentations and content or newsletters. Put simply, there is no "download" button or similar call to action that demonstrates that the identified items are indeed available to consumers for download.

Secondly, the specimens do not show use of the applied-for mark used in connection with online social media services.

Therefore, applicant has failed to demonstrate use of the mark in commerce and registration is refused.

**Examples of specimens.** Specimens for goods include a photograph of (1) the actual goods bearing the mark; (2) an actual container, packaging, tag or label for the goods bearing the mark; or (3) a point-of-sale display showing the mark directly associated with the goods. *See* 37 C.F.R. §2.56(b)(1), (c); TMEP §904.03(a)-(m).

Specimens for services must show a direct association between the mark and the services and include: (1) copies of advertising and marketing material, (2) a photograph of business signage or billboards, or (3) materials showing the mark in the sale, rendering, or advertising of the services. *See* 37 C.F.R. §2.56(b)(2), (c); TMEP §1301.04(a), (h)(iv)(C).

Any webpage printout or screenshot submitted as a specimen must include the webpage's URL and the date it was accessed or printed on the specimen itself, within the TEAS form that submits the specimen, or in a verified statement under 37 C.F.R. §2.20 or 28 U.S.C. §1746 in a later-filed response. *See* 37 C.F.R. §2.56(c); TMEP §§904.03(i), 1301.04(a).

**Response options.** Applicant may respond to this refusal by satisfying one of the following for each applicable international class:

- (1) Submit a different specimen (a verified [“substitute” specimen](#)) that (a) was in actual use

in commerce at least as early as the filing date of the application or prior to the filing of an amendment to allege use and (b) shows the mark in actual use in commerce for the services identified in the application or amendment to allege use. A “verified substitute specimen” is a specimen that is accompanied by the following statement made in a signed affidavit or supported by a declaration under 37 C.F.R. §2.20: “The substitute (or new, or originally submitted, if appropriate) specimen(s) was/were in use in commerce at least as early as the filing date of the application or prior to the filing of the amendment to allege use.” The substitute specimen cannot be accepted without this statement.

(2) Amend the filing basis to [intent to use under Section 1\(b\)](#) (which includes withdrawing an amendment to allege use, if one was filed), as no specimen is required before publication. This option will later necessitate additional fee(s) and filing requirements, including a specimen.

For an overview of the response options referenced above and instructions on how to satisfy these options using the online Trademark Electronic Application System (TEAS) form, see the [Specimen webpage](#).

Although applicant’s mark has been refused registration, applicant may respond to the refusal(s) by submitting evidence and arguments in support of registration. However, if applicant responds to the refusal(s), applicant must also respond to the requirement(s) set forth below.

## **IDENTIFICATION OF GOODS AND SERVICES AMENDMENT REQUIRED**

Applicant must clarify the wording “in the fields of... research, technology, and publishing” in the identification of goods and services in International Class(es) 009, 035, and 041 because it is indefinite and too broad. *See* 37 C.F.R. §2.32(a)(6); TMEP §§1402.01, 1402.03. This wording is indefinite because it does not make clear what the goods and/or services are. Further, this wording could identify goods and/or services in more than one international class. For example, research in the field of education and book publishing are in International Class 041.

The wording “content” in the identification of goods and services is unclear and required clarification as to the nature of the content. *See* 37 C.F.R. §2.32(a)(6); TMEP §1402.01.

The wording “downloadable and emailed newsletters” and “non-downloadable and emailed newsletters” in the identification of goods and services is unclear. *See* 37 C.F.R. §2.32(a)(6); TMEP §1402.01.

The wording “providing...articles, and blog posts” in the identification of services for International Class 035 must be clarified because it is too broad and could include services in other international classes. *See* 37 C.F.R. §2.32(a)(6); TMEP §§1402.01, 1402.03. While classification for identifications for “providing information” depends on service-related subject matter, providing articles and blogs are properly classified in International Class 041.

The wording “providing a directory of businesses” in the identification of services is indefinite and must be clarified because it is unclear if the directories are provided online. *See* 37 C.F.R. §2.32(a)(6); TMEP §1402.01.

The entire identification in Class 042 requires reclassification because it includes services in

International Class 041. *See* 37 C.F.R. §2.32(a)(6); TMEP §§1402.01, 1402.03.

The wording “social networking” in the identification of services in International Class 042 is indefinite and must be clarified because it is unclear if the services are provided online. *See* 37 C.F.R. §2.32(a)(6); TMEP §1402.01.

Applicant may substitute the following wording, if accurate (suggested amendments appear in bold and italics):

Class 009: Downloadable podcasts in the fields of demand generation, lead generation, marketing, and field event marketing; Downloadable podcasts in the fields of sales development, ***business*** research, ***technical consulting in the field of marketing***, and publishing ***of advertising texts***; Downloadable audio ***recordings***, video ***recordings***, and audiovisual presentations and ***downloadable audio recordings, video recordings, and audiovisual*** content in the fields of demand generation, lead generation, marketing, and field event marketing; Downloadable audio, video, and audiovisual presentations and ***and downloadable audio recordings, video recordings, and audiovisual*** content in the fields of sales development, ***business*** research, ***technical consulting in the field of marketing***, and publishing ***of advertising texts***; Downloadable ***electronic*** newsletters ***delivered by e-mail*** in the fields of demand generation, lead generation, marketing, and field event marketing; Downloadable ***electronic*** newsletters ***delivered by e-mail*** in the fields of sales development, ***business*** research, ***technical consulting in the field of marketing***, and publishing ***of advertising texts***

Class 035: Providing information to businesses in the fields of demand generation, lead generation, marketing, and field event marketing; Providing information to businesses in the fields of sales development, ***business*** research, ***technical consulting in the field of marketing***, and publishing ***of advertising texts***; Research services for businesses in the fields of demand generation, lead generation, marketing, and field event marketing; Research services for businesses in the fields of sales development, ***business*** research, ***technical consulting in the field of marketing***, and publishing ***of advertising texts***; Providing ***an online*** directory of businesses in the fields of demand generation, lead generation, marketing, and field event marketing; Providing ***an online*** directory of businesses in the fields of sales development, ***business*** research, ***technical consulting in the field of marketing***, and publishing ***of advertising texts***; Advertising services; Business development consulting services; Business marketing consulting services

Class 041: Educational services, namely, conducting conferences, seminars, webinars, and training in the fields of sales development, demand generation, lead generation, marketing, and field event marketing, and distribution of training and educational materials in connection therewith in printed or electronic format; ***Providing on-line non-downloadable articles and blog posts to businesses in the fields of demand generation, lead generation, marketing, and field event marketing; Providing on-line non-downloadable articles and blog posts to businesses in the fields of sales development, business research, technical consulting in the field of marketing, and publishing of advertising texts; Providing online non-downloadable podcasts in the fields of demand generation, lead generation, marketing, and field event marketing; Providing online non-downloadable podcasts in the fields of sales development, business research, technical consulting in the field of marketing, and publishing of advertising texts; Providing online non-downloadable audio, video, and audiovisual presentations and online non-downloadable audio recordings, video recordings, and audiovisual content in the fields of demand generation, lead generation, marketing, and field event marketing; Providing online non-downloadable audio, video, and audiovisual presentations and online non-downloadable audio recordings, video recordings, and audiovisual content in the fields of sales***

*development, business research, technical consulting in the field of marketing, and publishing of advertising texts; Providing online non-downloadable newsletters in the fields of demand generation, lead generation, marketing, and field event marketing via e-mail; Providing online non-downloadable newsletters in the fields of sales development, business research, technical consulting in the field of marketing, and publishing of advertising texts via e-mail*

Class 042: *{entry deleted}*

Class 045: **Online** social networking services

Applicant may amend the identification to clarify or limit the goods and/or services, but not to broaden or expand the goods and/or services beyond those in the original application or as acceptably amended. *See* 37 C.F.R. §2.71(a); TMEP §1402.06. Generally, any deleted goods and/or services may not later be reinserted. *See* TMEP §1402.07(e).

For assistance with identifying and classifying goods and services in trademark applications, please see the USPTO's online searchable [U.S. Acceptable Identification of Goods and Services Manual](#). *See* TMEP §1402.04.

## RESPONSE GUIDELINES

For this application to proceed, applicant must explicitly address each refusal and/or requirement in this Office action. For a refusal, applicant may provide written arguments and evidence against the refusal, and may have other response options if specified above. For a requirement, applicant should set forth the changes or statements. Please see "[Responding to Office Actions](#)" and the informational [video "Response to Office Action"](#) for more information and tips on responding.

Please call or email the assigned trademark examining attorney with questions about this Office action. Although an examining attorney cannot provide legal advice, the examining attorney can provide additional explanation about the refusal(s) and/or requirement(s) in this Office action. *See* TMEP §§705.02, 709.06.

The USPTO does not accept emails as responses to Office actions; however, emails can be used for informal communications and are included in the application record. *See* 37 C.F.R. §§2.62(c), 2.191; TMEP §§304.01-.02, 709.04-.05.

**How to respond.** File a [response form to this nonfinal Office action](#) or file a [request form for an extension of time to file a response](#).

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## RESPONSE GUIDANCE

- **Missing the deadline for responding to this letter will cause the application to [abandon](#).** A response or extension request must be received by the USPTO before 11:59 p.m. **Eastern Time** of the last day of the response deadline. Trademark Electronic Application System (TEAS) [system availability](#) could affect an applicant's ability to timely respond. For help resolving technical issues with TEAS, email [TEAS@uspto.gov](mailto:TEAS@uspto.gov).
- **[Responses signed by an unauthorized party](#)** are not accepted and can **cause the application to [abandon](#)**. If applicant does not have an attorney, the response must be signed by the individual applicant, all joint applicants, or someone with [legal authority to bind a juristic applicant](#). If applicant has an attorney, the response must be signed by the attorney.
- If needed, **find [contact information for the supervisor](#)** of the office or unit listed in the signature block.

## United States Patent and Trademark Office (USPTO)

### USPTO OFFICIAL NOTICE

Office Action (Official Letter) has issued  
on November 13, 2023 for  
**U.S. Trademark Application Serial No. 97792809**

A USPTO examining attorney has reviewed your trademark application and issued an Office action. You must respond to this Office action to avoid your application abandoning. Follow the steps below.

- (1) **[Read the Office action](#)**. This email is NOT the Office action.
- (2) **Respond to the Office action by the deadline** using the Trademark Electronic Application System (TEAS). Your response, or extension request, must be received by the USPTO on or before 11:59 p.m. **Eastern Time** of the last day of the response deadline. Otherwise, your application will be [abandoned](#). See the Office action itself regarding how to respond.
- (3) **Direct general questions** about using USPTO electronic forms, the USPTO [website](#), the application process, the status of your application, and whether there are outstanding deadlines to the [Trademark Assistance Center \(TAC\)](#).

After reading the Office action, address any question(s) regarding the specific content to the USPTO examining attorney identified in the Office action.

### GENERAL GUIDANCE

- **[Check the status](#) of your application periodically** in the [Trademark Status & Document Retrieval \(TSDR\)](#) database to avoid missing critical deadlines.
- **[Update your correspondence email address](#)** to ensure you receive important USPTO notices about your application.
- **[Beware of trademark-related scams](#)**. Protect yourself from people and companies that may try to take financial advantage of you. Private companies may call you and pretend to be the USPTO or may send you communications that resemble official USPTO documents to trick you. We will never request your credit card number or social security number over the phone. Verify the correspondence originated from us by using your serial number in our database, [TSDR](#), to confirm that it appears under the “Documents” tab, or contact the [Trademark Assistance Center](#).
- **[Hiring a U.S.-licensed attorney](#)**. If you do not have an attorney and are not required to

have one under the trademark rules, we encourage you to hire a U.S.-licensed attorney specializing in trademark law to help guide you through the registration process. The USPTO examining attorney is not your attorney and cannot give you legal advice, but rather works for and represents the USPTO in trademark matters.